DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

June 30, 1988

ALL-COUNTY LETTER NO. 88-75

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: IMPLEMENTATION OF CHAPTER 1438, STATUTES OF 1987 (SB 412)

Senate Bill 412, which pertains to the In-Home Supportive Services (IHSS) program, was signed by the Governor and will become operative on July 1, 1988. This letter describes key changes resulting from the bill's passage and presents the Department's policies for implementation. The policies are consistent with information contained in a recent Legislative Counsel's Opinion on the bill.

SB 412 creates a State mandated local program by amending statute to provide that Counties are obligated to ensure services are provided to all eligible recipients. Although SB 412 does entitle all eligible recipients to IHSS and removes the threat of program reductions, the legislation does not remove limits on funding and program control. The Department will continue to monitor County expenditures to ensure that they are consistent with each County's State-approved County plan and with its allocation of appropriated funds.

Change in Extent of County Financial Participation

Currently, Welfare and Institutions Code (WIC) Section 12306 specifies that, with respect to IHSS, the State shall pay from the General Fund the matching funds necessary to obtain Federal social services funds, and if Federal funds allocated by the Department are insufficient, the State is required to reimburse the Counties for IHSS services by an amount not to exceed a specified limit. Counties are required to provide 10 percent of the costs in excess of the specified limit. Beginning July 1, 1988, each County's contribution shall be limited to its contribution in the 1987-88 fiscal year. The State shall fully reimburse the Counties for all IHSS service costs above this mandatory County contribution level (provided the costs are in accordance with the approved County plan and allocation).

Elimination of Authority for Program Reductions in Counties

Currently, Section 12301 indicates that if a County cannot keep expenditures within the amount of its allocation plus any matching funds required to be expended by each County, the County is required to submit a reduction plan to the Department for approval prior to implementing any program reductions. The plan must specify which services will be cut and which client population will be affected. Effective July 1, 1988, there will be no authority for any County to reduce services to recipients in order to remain within its allocation. Section 12301 has been amended to delete all references to program reductions.

Statutes and Program Provisions Not Amended by SB 412

SB 412 must be implemented in concert with other statutes and program provisions that have not been changed by the bill. For example, Section 10102 indicates that each County shall utilize least cost services, provided that the quality of service is maintained. Allocations are made to each County in an allocation plan developed by the Department. In administering the allocation plan, the Department shall not allocate funds to cover County cost overruns which result from County failure to meet requirements of the plan. As another example, Section 12303 specifies that the cost of service contracts shall not exceed by more than 10 percent the allowable cost of the services as determined by the Department.

Although Sections 12300 and 12301 were amended by SB 412, provisions requiring each County to provide IHSS in a uniform manner consistent with the appropriation provided for such services in the annual Budget Act have not been changed. The recently implemented uniform needs assessment standards and functional rating scales were not affected by SB 412 and are still operational. These and all other program provisions which were not amended by SB 412 will continue to be applied.

Reimbursement for Expenditures Above County Allocation

Beginning July 1, 1988, the State will fully reimburse each County (less the required County contribution) for all program services authorized and provided within certain limits. In the event that the level of Federal and State funding is insufficient to pay for all the services authorized under Article 7 of the WIC, the State will either seek a deficiency appropriation or provide funding from other sources to fund County deficits when the cost overrun is, a) consistent with the maximum service levels and modes of delivery set forth in statute and Department regulations and b) not due to non-compliance with a State approved County plan or failure to meet the requirements of the Department's allocation plan. In other words, if an individual County deficit were to be caused by factors over which a County has no control, such as caseload growth or hours per case growth based on individual client need, then such costs would be considered State mandated and the County would be entitled to full reimbursement.

Limitations to Reimbursement

The State's reimbursement obligations do not extend to instances where a County's expenditures exceed its allocation due to non-compliance with the State approved County plan or failure to meet the requirements of the Department's allocation plan. Some examples of situations where reimbursement would not be made for cost overruns are as follows: a) a County chooses to give a wage/benefit increase to IHSS providers which is higher than that provided in the Budget Act; b) a County chooses to expand its use of a more expensive service delivery mode beyond the level of caseload and hours growth for each mode that is built into the Budget Act; c) a County chooses to enter into a third party contract at an hourly rate higher than the maximum established for that County; d) a County chooses to shift to a more expensive mode without providing for concomitant offsetting savings in other areas.

A deficiency appropriation or other funding will not be sought or provided for a deficit caused by such factors over which a County has control. Controllable costs such as those described in the examples above are not considered State mandated by the Department and would not be funded or considered by the Department as eligible for reimbursement on any claims filed with the Commission on State Mandates.

County Plan Approvals

Each year the County plan call letter will be used as the vehicle to convey departmental guidelines, including the provisions and limitations of the annual Budget Act. Section 12302 gives each County the option to utilize various service modes in order to implement its State approved County plan. Furthermore, Section 12302 provides that the Department shall require the County to amend its plan if its expenditure pattern is not consistent with the plan. The Department is empowered to limit the method by which IHSS program services are provided in order to ensure that the provision of services is in compliance with the annual Budget Act, the County plan and the allocation process.

Regulations implementing SB 412 will be forthcoming in the near future. If you have any questions regarding this letter, please call or write Robert A. Barton, Chief, Adult Services Bureau, (916) 322-6320.

LOREN D. SUTER
For Deputy Director
Adult and Family Services

cc: CWDA